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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/976,135	10/12/2001	Thomas R. Stanley	TPP:656 US	9536
26231	7590	08/31/2004	EXAMINER	
FISH & RICHARDSON P.C. 5000 BANK ONE CENTER 1717 MAIN STREET DALLAS, TX 75201			PARSLEY, DAVID J	
			ART UNIT	PAPER NUMBER
			3643	

DATE MAILED: 08/31/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/976,135	Applicant(s) STANLEY ET AL.	
	Examiner David J Parsley	Art Unit 3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 May 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4,6,8,13-15,25,28 and 29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4,6,8,13-15,25,28 and 29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 April 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 3643

Detailed Action

Amendment

1. This office action is in response to applicant's amendment dated 5-25-04 and this action is final.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 6 and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by DE Patent No. 4035939.

Referring to claims 1 and 25, the German patent discloses an apparatus for automatically stuffing a casing with a food product comprising, a stuffing horn through which food product flows into a tubular food casing deshirred from a shirred food casing stick on the stuffing horn, the stuffing horn including an input end interconnected with a pressurized source of food product – (inherent), a clipping device – see figures 1-3, with a clip – at 48, the food casing after being stuffed, the clipping device comprising a slot – see at 35, 38 and 42 in figure 2, for guiding the clip and an entry into the slot – at 36, wherein the entry comprises an aperture in the clipping

Art Unit: 3643

device and a tape – at 12, holding lengths of string having end portions secured together to form string loops – at 14, the tape being directed toward the clipping device so that a string loop is transferred into the entry and into the slot in the clipping device so that a first portion of the string loop protrudes through the entry into the slot while a second portion of the string loop is held simultaneously to the tape – see for example figures 2-3, wherein the entry is positioned in the slot and the tape is positioned relative to the entry so that when the food casing is being closed with the clip the clip draws the loop to the casing and holds the end portions of the loop between the clip and the food – see for example the English abstract and figures 1-3. U.S. Patent No. 4,612,684 to Kollross and U.S. Patent No. 5,109,648 to Evans both disclose a stuffing horn – at 12 of Kollross and – at 12 of Evans used with a clipping device, and are used to teach that it is known in the art to use stuffing horns with clipping devices.

Referring to claim 6, the German patent discloses the secured together end portions are secured together by a knot – at 56 – see for example figure 3.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 6, 8, 25 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,755,022 to Whittlesey in view of the German patent.

Art Unit: 3643

Referring to claims 1 and 25, Whittlesey discloses an apparatus for automatically stuffing tubular food casing with food product which comprises a stuffing horn – at 26 which food product flows into tubular food casing deshirred from a shirred food casing stick on the stuffing horn, an input end of the stuffing horn being interconnected with a pressurized source of food product, a clipping device – at 20 for closing stuffed food casing with a clip - 40, a means for causing a tape – see figure 1, holding lengths of string having end portions secured together to form string loops - 54, to be directed toward the clipping device – 20 for closing an end of the food casing so that a string loop – 54 is transferred directly from the tape into an entry into a slot – see figures 1 and 11, wherein the entry comprises an apertures in the clipping device – see figures 1 and 11, wherein the entry is positioned in the slot and the tape is positioned relative to the entry so that when the food casing is positioned in the slot and the tape is positioned relative to the entry so that when the food casing is being closed with a clip, the clip draws the loop to the casing and holds the end portions of the loop between the clip and the food casing – see for example figures 1 and 11. Whittlesey does not disclose that a first portion of the string loop protrudes through the entry into the slot while a second portion of the string loops is held simultaneously to the tape. The German patent does disclose a first portion of the string loop – at 14, protrudes through the entry into the slot while a second portion of the string loops is held simultaneously to the tape – at 12 – see for example figures 2-3. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Whittlesey and add the string loop protruding through the slot while being held to the tape of the German patent, so as to allow for the clip to remove the string loop from the tape without the need of any intervening devices.

Art Unit: 3643

Referring to claim 2, Whittlesey as modified by the German patent further discloses a plurality of rolls – at 60,62,68,76,70,76,86 and surrounding 86 of Whittlesey, including a tape supply roll, a drive roll, a takeup roll, and at least one intermediate roll which is proximate the entry so that the secured together end portions of a string loop project from the tape into the entry slot as the tape passes around the intermediate roll – see for example figure 1 of Whittlesey.

Referring to claim 3, Whittlesey as modified by the German patent further discloses means for driving the drive roll to pull the tape from the supply roll around the intermediate roll – see for example figure 1 of Whittlesey.

Referring to claims 4 and 28, Whittlesey as modified by the German patent further discloses an edge – see figure 10 of Whittlesey, for catching secured together end portions of a string loop as the string loop passes around the intermediate roll to cause the secured together portions of the string to protrude from the tape into the entry to the slot and to assist in removal of the string loop from the tape – see for example figures 1 and 10-11 of Whittlesey.

Referring to claim 6, Whittlesey as modified by the German patent further discloses the secured together portions are secured together by a knot – at 58 of Whittlesey and – at 56 of the German patent.

Referring to claim 8, Whittlesey as modified by the German patent further discloses means for radially compressing the food casing – at 30-31, after being stuffed to cause a restricted location – at 38, along a stuffed food casing – 24, length, the clipping device being configured to clip the casing at the restricted location – see for example figure 1 of Whittlesey.

Claims 2-4, 8 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over the German patent as applied to claim 1 above, and further in view of Whittlesey.

Art Unit: 3643

Referring to claim 2, the German patent further discloses a plurality of rolls including an intermediate roll – at 16 and a drive roll – at 30. The German patent does not disclose a tape supply roll, a drive roll, a takeup roll and at least one intermediate roll which is proximate the entry so that the secured together end portions of a string loop project from the tape into the entry into the slot as the tape passes around the intermediate roll. Whittlesey discloses a plurality of rolls – at 60,62,68,76,70,76,86 and surrounding 86, including a tape supply roll, a drive roll, a takeup roll, and at least one intermediate roll which is proximate the entry so that the secured together end portions of a string loop project from the tape into the entry slot as the tape passes around the intermediate roll – see for example figure 1. Therefore it would have been obvious to one of ordinary skill in the art to take the device of the German patent and add the plurality of rolls of Whittlesey, so as to allow for the tape to be quickly and efficiently moved to supply the string loops to the clipping device.

Referring to claim 3, The German patent as modified by Whittlesey further discloses means for driving the drive roll to pull the tape from the supply roll around the intermediate roll – see for example figure 1 of Whittlesey.

Referring to claims 4 and 28, The German patent as modified by Whittlesey further discloses an edge – see figure 10 of Whittlesey, for catching secured together end portions of a string loop as the string loop passes around the intermediate roll to cause the secured together portions of the string to protrude from the tape into the entry to the slot and to assist in removal of the string loop from the tape – see for example figures 1 and 10-11 of Whittlesey.

Referring to claim 8, the German patent as modified by Whittlesey further discloses means for radially compressing the food casing – at 30-31, after being stuffed to cause a

restricted location – at 38, along a stuffed food casing – 24, length, the clipping device being configured to clip the casing at the restricted location – see for example figure 1 of Whittlesey.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over the German patent or Whittlesey as modified by the German patent as applied to claim 1 above, and further in view of U.S. Patent No. 4,437,209 to Duroyon. The German patent and Whittlesey as modified by the German patent further discloses the clipping device is of sufficiently lightweight and is driven by a sufficient power source to obtain a clipping cycle – see for example columns 1-7 of Whittlesey and figures 1-3 of the German patent. The German patent and Whittlesey as modified by the German patent do not disclose the clipping device is of sufficiently lightweight and is driven by a sufficient power source to obtain a clipping cycle of less than 3 seconds. Duroyon does disclose the clipping cycle is less than 3 seconds – see for example column 9 lines 57-68 and column 10 lines 1-5. Therefore it would have been obvious to one of ordinary skill in the art to take the apparatus of the German patent or Whittlesey as modified by the German patent and add the clipping cycle time less than 3 seconds of Duroyon, so as to allow for the apparatus to be more efficient in that it can close off more sausage casings in a short amount of time.

Claims 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over the German patent or Whittlesey '022 as modified by the German patent as applied to claim 1 above, and further in view of U.S. Patent No. 5,885,150 to Whittlesey.

Referring to claim 14, the German patent and Whittlesey '022 as modified by the German patent further discloses a conveyor – 22 of Whittlesey '022 and see figure 1 of the German patent, is provided to remove stuffed food product from the vicinity of the clipping device – at 18

of Whittlesey '022, and – at figure 1 of the German patent, after stuffed food casing is closed, the conveyor comprising a conveying belt and the belt traveling over rollers beneath the conveying surface of the belt – see for example figures 1-11 of Whittlesey '022. The German patent and Whittlesey '022 as modified by the German patent do not disclose the belt travels over slacker idler rollers so as to be extended and retracted to extend and reduce a space between the clipping device and the conveying surface. Whittlesey '150 does disclose the belt travels over slacker idler rollers – at 50 and/or 66, so as to be extended and retracted to extend and reduce a space between the clipping device and the conveying surface without changing the conveying belt – see for example figures 1-4 and columns 1-5 where the belt is not changed in that the idler rollers are separate from and not integral with the belt and therefore the idler rollers can be moved without changing out the conveying belt. Therefore it would have been obvious to one of ordinary skill in the art to take the apparatus of the German patent and Whittlesey '022 as modified by the German patent and add the retractable conveyor of Whittlesey '150, so as to make the apparatus more flexible in that it can handle sausages of differing sizes.

Referring to claim 15, the German patent as modified by Whittlesey '15 and Whittlesey '022 as modified by the German patent and Whittlesey '022 further discloses means is provided to cause the conveyor to retract to increase the space when gatherers for the clipping device are operating to gather stuffed food casing to form a radial restriction in the stuffed food casing and to extend to reduce the space and place the conveying surface near the clipping device when the gatherers are dormant – see for example figures 1-4 and columns 1-5 of Whittlesey '150.

Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over the German patent or Whittlesey as modified by the German patent as applied to claim 25 above, and further

in view of U.S. Patent No. 5,842,915 to Plewa et al. the German patent and Whittlesey as modified by the German patent further discloses the secured together end portions of the string loop are into the slot. The German patent and Whittlesey as modified by the German patent do not disclose an air source directs the loop into the slot. Plewa et al. does disclose an air source directs the loop into the slot – see for example figures 1-8 and columns 1-7. Therefore it would have been obvious to one of ordinary skill in the art to take the apparatus of the German patent and Whittlesey as modified by the German patent and add the air source to direct the loop of Plewa et al., so as to ensure the loop is moved into the correct position thus making the device as efficient as possible.

Response to Arguments

4. Applicant's arguments with respect to claims 1-4, 6, 8, 13-15, 25, 28 and 29 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J Parsley whose telephone number is (703) 306-0552. The examiner can normally be reached on 9hr compressed.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (703) 308-2574. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



David Parsley
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